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By Electronic Mail

April 14, 2003

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2003 APR 14 P 5:19

*Comment  
 on AOR 2003-10*

Lawrence Norton  
 General Counsel  
 Federal Election Commission  
 999 E Street, N.W.  
 Washington, DC 20463

Re: Comment on AOR 2003-10

Dear Mr. Norton:

I am writing on behalf of Common Cause and Democracy 21 to provide comments on AOR 2003-10, a request for an advisory opinion on behalf of the Nevada State Democratic Party and Rory Reid.

The request seeks an opinion from the Commission that, under the facts presented in the request, Rory Reid, the son of Senator Harry Reid (D-NV) and an acknowledged "agent" of Senator Reid, can raise non-federal funds (or soft money) for the state party committee without his being deemed to be an "agent" of Senator Reid for that purpose. The solicitation of non-federal funds by a federal candidate or officeholder, or by the agent of a federal candidate or officeholder, is prohibited by the Bipartisan Campaign Reform Act (BCRA), 2 U.S.C. 441i(e)(1).

Based on the facts presented in the AOR, we urge the Commission to find that Rory Reid is an agent of Senator Reid, and therefore is not permitted under BCRA to solicit non-federal funds for the state party.

These facts include: (1) Rory Reid is the son of Senator Harry Reid, the senior Senator from Nevada; (2) Senator Reid is a candidate for reelection in 2004; (3) Rory Reid has acted as an agent of

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Senator Reid in the past for the purpose of soliciting funds; and (4) Rory Reid will be expressly authorized by Senator Reid in this election cycle to act on his behalf and as his agent to raise hard money contributions, presumably including funds for Senator Reid's reelection campaign.

Under these circumstances, we urge the Commission to find that Rory Reid acts as an agent of Senator Reid for all political fundraising purposes, and thus may not solicit non-federal funds for the state party. This conclusion should be reached based on the totality of circumstances presented in this specific case, and not on the basis of any one fact alone – such as, for instance, the father-son relationship between Rory Reid and Senator Reid.

No single fact presented here, by itself, requires the finding of an agency relationship in all cases. Thus, for instance, we do not believe the fact that a person is a relative of an officeholder by itself means the person is an "agent" of the officeholder for purposes of BCRA. Nor does the fact that a person is authorized to raise hard money for an officeholder by itself mean that the same person, in the same election cycle, cannot raise non-federal funds for a state party.

Rather, the combination of circumstances here support a finding of an agency relationship for purposes of section 441i(e)(1) of BCRA. These circumstances include the fact that Senator Reid has taken express action to authorize Rory Reid to act as an agent for purposes of raising money in this election cycle and for Senator Reid's campaign, combined with the close familial relationship, the history of Rory Reid's fundraising activities and the fact that Senator Reid is on the ballot in the same cycle in which Rory Reid would be raising non-federal funds for the state party.

We appreciate the opportunity to comment on this request.

Sincerely,



Donald J. Simon

DJS:skk